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Corporation

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Kimberly Brennan, an individual; Carmen
Ponce, an individual,

Plaintiff,

v.

Johnny Hernandez, an individual; Crete
Carrier Corporation, an Arizona foreign
for-profit corporation; John and Jane Does
1-10; and White Partnerships 1-10;

Defendants.

No.

NOTICE OF REMOVAL

Defendant Crete Carrier Corporation (hereinafter “Removing Defendant”),
hereby file the following Notice of Removal of this action, currently pending in the
Superior Court of the State of Arizona, County of Maricopa, Case No. CV2024-007763, to
the United States District Court for the District of Arizona, pursuant to 28 U.S.C. §§ 1332,
1441, and 1446. As grounds for removal, Removing Defendant state as follows:

PROCEDURAL HISTORY

1. The above-captioned case commenced when Plaintiffs Kimberly
Brennan and Carmen Ponce filed a Complaint in Superior Court in and for Maricopa
County, on April 5, 2024. See the Complaint, along with complete copy of Superior Court
files, attached as **Exhibit A**.

- 1 2. Removing Defendant was served the Complaint on June 14, 2024.
- 2 3. Defendant Johnny Hernandez has not been served the Complaint.
- 3 4. A responsive pleading on behalf of Defendant Johnny Hernandez has
- 4 not been filed. A responsive pleading on behalf of Removing Defendant has not been filed.

5 **TIMELINESS OF REMOVAL**

6 5. Under 28 U.S.C. § 1446(b)(1), a notice of removal shall be filed

7 within thirty (30) days after the receipt by the defendants, through service or otherwise, of

8 a copy of the initial pleading setting forth the claim for relief upon which such action or

9 proceeding is based.

10 6. This Notice of Removal is filed within thirty (30) days after the

11 Complaint was served on Removing Defendant and, therefore, is timely. See 28 U.S.C. §

12 1446(b)(1).

13 7. A Notice of Filing Notice of Removal is being filed with the Superior

14 Court in and for Maricopa County. See Notice of Filing Notice of Removal (exclusive of

15 exhibits), attached as **Exhibit B**.

16 **BASIS OF REMOVAL**

17 8. This Court has original jurisdiction over this action pursuant to 28

18 U.S.C. § 1332 because the amount in controversy exceeds \$75,000.00 and there is complete

19 diversity of citizenship. See 28 U.S.C. § 1332(a).

20 9. Plaintiffs claim personal injuries as a result of Defendants' alleged

21 liability stemming from an accident that occurred on April 6, 2022. Plaintiffs asserted in

22 their complaint that this is a Tier 3 case for damages in excess of \$300,000 and are seeking

23 punitive damages, amongst lost wages and personal injury damages. Accordingly, the

24 amount in controversy exceeds \$75,000.

25 10. According to the Complaint, Plaintiff Kimberly Brennan resides in

26 Maricopa County, Arizona where she presumably intends to remain. Thus, Plaintiff

27 Kimberly Brennan is domiciled in Maricopa County, Arizona and considered a citizen of

28 Arizona.

1 11. According to the Complaint, Plaintiff Carmen Ponce resides in
2 Maricopa County, Arizona where she presumably intends to remain. Thus, Plaintiff
3 Carmen Ponce is domiciled in Maricopa County, Arizona and considered a citizen of
4 Arizona.

5 12. Removing Defendant is incorporated in Nebraska and has its principal
6 place of business in Lincoln, Nebraska. Removing Defendant is thus considered a citizen
7 of Nebraska.

8 13. According to the AZDPS Report, Defendant Johnny Hernandez
9 resides in Greenville, Mississippi, where he presumably intends to remain. Thus,
10 Defendant Johnny Hernandez is domiciled in Greenville, Mississippi and considered a
11 citizen of Mississippi.

12 14. Jane Doe Hernandez is a fictitious party. Assuming Plaintiff's
13 reference to Jane Doe Hernandez relates to the spouse of Defendant Johnny Hernandez.
14 Removing Defendant does not have personal knowledge of whether Defendant Johnny
15 Hernandez is legally married, however if he was it would be presumed that Jane Doe
16 Hernandez resides with him in Greenville, Mississippi with the intent to remain there.
17 Thus, Jane Doe Hernandez is likely domiciled in Greenville, Mississippi and considered
18 a citizen of Mississippi.

19 15. Pursuant to 28 U.S.C. § 1446(b)(2)(A), all defendants "who have been
20 properly joined and served must join in or consent to the removal of the action" for all
21 actions removed based on diversity of citizenship. This is satisfied as the only other non-
22 fictitious Defendant, Defendant Johnny Hernandez, has not yet been served.

23 **WHEREFORE**, Removing Defendant request that the above actions now
24 pending in the Superior Court in and for Maricopa County be removed to this Court.

1 DATED this 15th day of July, 2024.

2 JONES, SKELTON & HOCHULI, P.L.C.

3
4 By /s/ Lauren D. Norton

5 Phillip H. Stanfield

6 Clarice A. Spicker

7 Lauren D. Norton

8 40 N. Central Avenue, Suite 2700

9 Phoenix, Arizona 85004

10 Attorneys for Defendant Crete Carrier

11 Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of July, 2024, I caused the foregoing document to be filed electronically with the Clerk of Court through the CM/ECF System for filing; and served on counsel of record via the Court's CM/ECF system.

/s/ Gail Hardin